IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1508 OF 2005

Ayurved Prasarak Mandali & anr. ..Petitioners.
Vs.
The State of Maharashtra & anr. ..Respondents.

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Mr. S.B. Deshmukh instructed by Mrs. Vinita Bakre- Shastry for the Petitioners.
Mr. V.P. Malwankar, Assistant Government Pleader for Respondent Nos.1 to 4.

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CORAM : KSHITIJ R. VYAS, C.J. &
DR.D.Y.CHANDRACHUD, J.

25th April, 2006.

P.C. (Per DR. D.Y. CHANDRACHUD, J.) :

1. The First Petitioner is a registered public charitable trust and conducts the Second Petitioner which is an educational institution. The College is aided. The case of the Petitioner is that the grant is normally given in four installments. The grant for the months of January, February and March is issued on 31st March, the last day of the financial year, but according to the Petitioner it is received in the last week of April or the first week of May. The contention of the Petitioners is that by virtue of this practice artificial excesses are created for the financial year and that the

Respondents for the purpose of counting the amount which has been received in the next financial year treat this amount as an excess over and above the grant which was payable for the next financial year; consequently that amount is thereafter deducted from the salary grant which is payable for the next year. That led to the institution of these proceedings under Article 226 of the Constitution.

2. When the petition came up for admission, parties agreed to an order in terms of the Minutes signed by the learned counsel by which inter alia the Senior Accounts Officer from the office of the Principal Accountant General (Audit) Maharashtra (I), Mumbai was to inspect the account of the Petitioner institute and make a report to this Court as regards the amount of the salary grant which was given to the institute since 2000 and what, if any, excess was due from the Petitioner. Accordingly in pursuance of the order of the Court, a report came to be submitted by the Senior Audit Officer. The report found that during the period 2000-01 to 2003-04 an excess grant of Rs.15,18,549/- was received. As against this an amount of Rs.21,38,133/- was recovered by adjustment. In other words, an amount of Rs.6,19,584/- had been recovered in excess.

In view of this report by our order dated 15th February, 2006 we permitted on the request of the Learned AGP the Respondents to explain this position before the Court.

3. An affidavit of the Deputy Director of Ayurved has now been filed on 1st March, 2006. Annexed to the aforesaid report is a further report dated 28th February, 2006 of the Senior Audit Officer/ OA-IV. This report concludes by finding that the excess grant that was received by the institution during the period 2000-01 to 2003-04 was Rs.15.18,549/- as against which an amount of Rs.15,79,556/- was recovered by adjustment. The report has, however, noted that the facts of adjustment will be verified during the next audit. From the narration of facts, it would thus appear that the earlier figure which emerged from the audit report of the Senior Audit Officer was that an amount of Rs.6,19,584/- was recovered in excess. This has now been corrected in the subsequent report. At this stage, since the matter is one purely or substantially of accounts, it would neither be appropriate nor proper for this Court to carry out a detailed exercise. The reconciliation of the figures must be left to the Senior Audit Officer. The latest report dated 28th February, 2006 does record that the facts relating

to the adjustment will be verified during the course of the next audit. In our view, it would be appropriate if the following directions are issued on the basis whereof the Petition can be disposed of viz:

i) It would be open to the Petitioner to move the Senior Audit Officer by filing a representation within a period of two weeks from today with reference to the contents of the report dated 28th February, 2006 and the letter dated 27th February, 2006 of the Director of Ayurved (these being Exhibit 2 collectively to the affidavit dated 1st March, 2006 filed by the Deputy Director of Ayurved in these proceedings);

ii) The Senior Audit Officer shall duly consider the representation made by the Petitioner when the exercise of verifying the adjustment is carried out during the course of the next audit;

iii) If the Petitioners are still aggrieved, it would be open to them to take recourse to such remedies as are available in law. The Petition is disposed of. There shall be no order as to costs.

CHIEF JUSTICE.

(DR. D.Y. CHANDRACHUD, J.)